

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
HATTIESBURG DIVISION

MICHAEL TYSON

PLAINTIFF

V.

CIVIL ACTION NO. 2:07-CV-75-KS-MTP

SHERIFF LARRY DYKES, et al.

DEFENDANTS

**ORDER GRANTING MOTION FOR PROTECTIVE ORDER**

THIS MATTER is before the court on the motion [67] of Defendant Chris Smith for an order quashing the deposition notice served upon him by the plaintiff. Defendant Jones County has joined [69] the motion. The court will construe the motion as a motion for a protective order. Having the carefully considered the motion, the court finds that it should be GRANTED.

As an initial matter, the court notes that the plaintiff failed to file a timely response<sup>1</sup> to the motion. Accordingly, the motion may be granted as unopposed pursuant to Local Rule 7.2(C)(2).

Additionally, the discovery deadline expired on August 1, 2008. Plaintiff did not seek an extension of the discovery deadline and has not demonstrated good cause for such an extension. Moreover, the deposition was noticed after defendant Jones County filed a motion [62] for summary judgment.

Local Rule 26.1 (B)(1) provides that “all depositions shall be concluded” by the discovery deadline. Subpart (B)(2) of the rule further provides that depositions must be noticed “sufficiently in advance of the discovery cut-off date so as to comply with this rule.” The deposition was noticed for a date approximately 42 days after the discovery deadline and nearly a

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<sup>1</sup>As the deposition at issue was noticed for September 11, 2008, the court afforded the motion expedited consideration and directed the plaintiff to respond by September 9, 2008, at 3:00 p.m. Plaintiff did not file a response.

month after the motions deadline.

IT IS, THEREFORE, ORDERED that the motion to quash [67] is hereby granted. The deposition notice is hereby set aside and Chris Smith is relieved of any obligation to appear for the deposition.

SO ORDERED on this 9<sup>th</sup> day of September, 2008.

s/ Michael T. Parker

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United States Magistrate Judge